

**REMARKS**

Claims 13-38 are pending in this application. Claim 38 is amended to change its dependency.

Applicants thank Examiner Alexander for recognizing allowable subject matter in claims 14-25 and 27-37. Applicants submit that amended claim 38 contains allowable subject matter because it now depends from objected to claim 27.

**The Claimed Invention**

An exemplary embodiment of the invention, as recited by independent claim 13, is directed to a coffee machine comprising a brewing chamber provided with at least one outlet for coffee and a spout which is height-adjustable relative to the outlet and is for ejecting coffee.

Another exemplary embodiment of the invention, as recited by independent claim 26, is directed to a coffee machine for dispensing coffee to a coffee receptacle, the coffee machine comprising a brewing chamber, the brewing chamber having an outlet for the discharge of coffee from the brewing chamber; and a spout for discharging the coffee from the coffee machine, the spout having a discharge end from which the coffee is discharged from the coffee machine, the spout being adjustable to adjust a vertical distance from the discharge end to a platform on which the coffee receptacle is to be placed.

Conventional coffee machines do not have both a height-adjustable spout and an impact surface that is arranged at a fixed distance from the coffee outlet of the brewing chamber.

An object of the invention is to provide a coffee machine that has a spout that is vertically adjustable (to allow for the use of coffee cups of different heights) and still

maintain a fixed distance between the outlet of the brewing chamber and the impact surface (to provide coffee of uniform quality) (see page 2, lines 13-19).

The invention addresses and solves this problem by providing a coffee machine comprising a brewing chamber provided with at least one outlet for coffee and a spout which is height-adjustable relative to the outlet and is for ejecting coffee, and an impact surface arranged upstream thereof, wherein the impact surface is arranged at a fixed distance from the coffee outlet.

### **The Kraan Reference in view of the Gockelmann Reference**

In the Office Action, claims 13, 26 and 38 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,009,792 to Kraan in view of DE 36 02 665 A1 (Gockelmann). Applicants respectfully traverse the rejection.

Claim 13 includes the feature of a spout which is height-adjustable. The Office Action does not assert that Kraan shows a height adjustable spout. The Office Action applies Gockelmann as disclosing a height adjustable spout and asserts that it would have been obvious to combine the spout of Gockelmann with the machine of Kraan. Applicants respectfully submit that Gockelmann does not disclose a height adjustable spout.

Applicants submit that Gockelmann discloses not one spout that is height adjustable, but instead three fixed-height elements, each with its own opening. As shown in Fig. 1, Gockelmann has three tubular elements 14, 12 and 7. As shown in Fig. 1, element 14 with opening 10b is used for short cups. As shown in Fig. 4, element 12 with opening 13 is used for intermediate height containers such as mugs. As shown in Fig. 5, element 7 with opening 8 is used for tall containers such as coffee pots. Depending on the height of the container being used, a different one of the tubular elements is chosen.

In stark contrast to Gockelmann, the coffee in the invention flows through the same spout and opening whether the spout is adjusted to its highest position or its lowest

position. This is reflected in the “a spout which is height-adjustable” and “wherein the coffee is passed to the spout” language used in claim 13.

Claim 26 includes the feature of a spout for discharging the coffee from the coffee machine, the spout having a discharge end from which the coffee is discharged from the coffee machine, the discharge end being located downstream from the impact surface, the spout being adjustable to adjust a vertical distance from the discharge end to a platform on which the coffee receptacle is to be placed.

As discussed above, Gockelmann does not disclose one spout that is height adjustable. For an element of Gockelmann to correspond to the spout of claim 26, that element must have a discharge end from which the coffee is discharged from the coffee machine. None of the elements of Gockelmann that have a discharge end from which coffee is discharged from the coffee machine is height adjustable. Element 14 is not height adjustable. Element 12 is not height adjustable. Element 7 is not height adjustable. The apparatus of Gockelmann at most involves the stacking of multiple spouts; it does not involve a spout that is height adjustable.

As amended by this Amendment, claim 38 now depends from objected to claim 27 instead of rejected claim 26.

In view of the foregoing, Applicants respectfully submit that the combination of Kraan and Gockelmann does not teach or suggest the features of claims 13, 26 and 38 and therefore rejection under 35 USC §103(a) is inappropriate. As a result, Applicants respectfully request withdrawal of the rejection.

**CONCLUSION**

In view of the above, Applicants respectfully request entry of the present Amendment and allowance of claims 13-38. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

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February 5, 2010

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